

A G Contract No : KR05-0090TRN
ECS File No : JPA 04-148
Project No : I 010-F-401/IM 010-F-(002)
Project: T.I. Improvement
Section: Fort Grant Road T.I.
TRACS No.: H5455 01C / 01D
Budget Source Item No.: 13605, 10206

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF WILLCOX

THIS AGREEMENT is entered into this date March 2, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF WILLCOX, acting by and through its MAYOR and CITY COUNCIL (the "CITY").

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. Incident to the State's improvements to the Fort Grant Road Traffic Interchange (including new signals at the ramp intersections), it is the intent of the State and the City to participate in the design, construction and maintenance of a new warranted traffic signal at the intersection of Fort Grant Road and Circle I Road (formerly Virginia Avenue). The parties hereto agree that the State will design, construct and maintain the traffic signals, and the City agrees to provide and pay for the electrical energy to operate the traffic signals, streetlights and bridge pedestrian lighting. The State also agrees to maintain the streetlights and bridge pedestrian lighting, including replacement of the luminary lamps as necessary at the locations noted in the Scope of Work below. The above work is hereinafter referred to as the "Project", at an estimated cost of \$12,500,000.00.

4. The parties hereby agree to and acknowledge the following conditions: a) The estimated monetary amounts referenced in this Agreement are subject to possible substantial change before project completion; b) The parties shall perform their responsibilities consistent with the Agreement; and c) Any change or modification to the Project will only occur with the mutual written consent of the parties.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27395
Filed with the Secretary of State
Date Filed: 03/02/05
Janice K. Brewer
Secretary of State

By: James D. Truexwald

II. SCOPE OF WORK

1. The State shall:

a. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit same to the city for concurrence.

b. Call for bids and award one or more construction contracts for the Project. Administer same and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by Project delays attributable to the State.

c. Upon completion of the Project perform the final inspection and notify the City in writing that the Project has been constructed in accordance with the Project documents and has been satisfactorily completed.

d. Upon completion, approval and acceptance of the Project maintain the streetlights, at the locations noted below, by replacing burned out lamps and repairing or replacing the fixtures and light poles as necessary to keep them in working order.

- i. Lighting on the four ramps of the new Traffic Interchange
- ii. Lighting on the intersections of SR 186 and the ramps
- iii. Lighting on the intersections of SR 186 and Circle I Road
- iv. Pedestrian lighting on the SR 186 bridge over I-10

e. Upon completion, approval and acceptance of the Project, maintain the Traffic Signals at the four ramps and the Fort Grant Road and Circle I Road (formerly Virginia Avenue) intersections.

2. The City shall:

a. Review the design documents required for construction of the Project, and provide comments to the State as appropriate.

b. In the event unforeseen conditions or circumstances increase the cost of said work necessitated by a change in the Project's Scope of Work, such additional costs shall require prior approval of the State. All costs attributable to any engineering change orders requested by the City shall be the sole responsibility of the City.

c. Upon completion, approval and acceptance of the Project and upon behalf of the parties herein, provide electrical energy to operate the traffic signals, streetlights, and bridge pedestrian lights at the City's expense.

III. MISCELLANEOUS PROVISIONS

1. The parties to this Agreement agree to that the State shall be indemnified and held harmless by the City for the vicarious liability of the State as a result of entering into this Agreement. Each party to this Agreement is responsible for its own negligence.

2. This Agreement shall remain in full force and effect until completion of the work; provided however, that any provisions in this Agreement for electrical power and maintenance of the luminary lamps shall be perpetual, unless assumed by another governmental entity.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 pertaining to State audit are applicable to this Agreement. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by the required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

City of Willcox
Attn: Gilbert Davidson, City Manager
101 S. Railroad Avenue, Suite B
Willcox, Arizona 85643
(520) 384-4271 x 302


9. In accordance with Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF WILLCOX

STATE OF ARIZONA

Department of Transportation

By 
MARLIN "MICK" EASTHOUSE
Mayor

By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

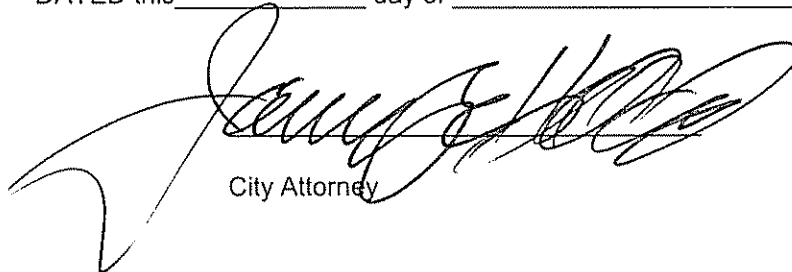
ATTEST:

By 
CRISTINA G. WHELAN
Clerk

APPROVAL OF THE CITY OF WILLCOX

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF WILLCOX, an agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 7th day of February, 2005.


City Attorney

ORDINANCE NS208

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA ADDING SECTIONS 2.04.010, 2.04.020, 2.04.030, 2.04.040, 2.04.050, 2.04.060, 2.04.070, AND 2.04.080 OF THE MUNICIPAL CODE RELATING TO ORDINANCES, RESOLUTIONS AND CONTRACTS AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Mayor and City Council of the City of Willcox, Cochise County, Arizona as follows:

That sections 2.04.010, 2.04.020, 2.04.030, 2.04.040, 2.04.050, 2.04.060, 2.04.070, and 2.04.080 are added to the Willcox Municipal Code as stated:

Chapter 2.04 ORDINANCES, RESOLUTIONS AND CONTRACTS.

Sections:

- 2.04.010 Prior Approval.
- 2.04.020 Introduction.
- 2.04.030 Reading of Proposed Ordinance
- 2.04.040 Requirements for an Ordinance.
- 2.04.050 Effective Date of Ordinances.
- 2.04.060 Signatures Required.
- 2.04.070 Publishing Required.
- 2.04.080 Posting Requirements.

2.04.010 Prior Approval.

Before presentation to the council, all ordinances, resolutions and contract documents shall have been reviewed as to form by the attorney and shall, when there are substantive matters of administration involved, be referred to the person who is charged with the administration of the matters. Such person shall have an opportunity to present his or her objections, if any, prior to the passage of the ordinance, resolution, or acceptance of the contract.

2.04.020 Introduction.

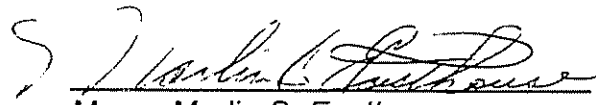
Ordinances, resolutions, and other matters requiring action by the council shall be introduced and sponsored by a member of the council, except that the attorney or the manager may present ordinances, resolutions and other matters or subjects to the council, and any member of the council may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise the ordinance, resolutions or subject matter shall not be considered.

2.04.080 Posting Requirements.

Every ordinance imposing a penalty, fine, forfeiture or other punishment shall, after passage, be posted by the clerk in three or more public places within the city and an affidavit of the person who posted the ordinance shall be filed in the office of the clerk as proof of posting.

That the immediate operation of the provision of this Ordinance is necessary for the preservation of the public, peace, health and safety an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage.

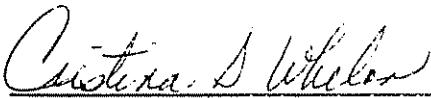
PASSED AND ADOPTED by the Mayor and City Council of the City of Willcox, Cochise County, Arizona on this 13TH day of JANUARY 1997. 8.



Mayor Marlin S. Easthouse

DATE SIGNED: 1-15-98

ATTEST.



Cristina G. Whelan
City Clerk

APPROVED AS TO FORM:



James E. Holland,
City Attorney

PUBLISH: Arizona Range News November 12 & 19, 1997 - Public Hearing November 25, 1997



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

TERRY GODDARD
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0090TRN (**JPA 04-148**), an Agreement between public agencies, i.e., The State of Arizona and City of Willcox, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: February 24, 2005

TERRY GODDARD
Attorney General

A handwritten signature in cursive script that reads "Susan Davis".

Susan E. Davis
Assistant Attorney General
Transportation Section